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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,622	08/16/2006	Minoru Ohyama	27593U	3814
20529 7590 11/17/2009				
THE NATH LAW GROUP				
112 South West Street				
Alexandria, VA 22314				
EXAMINER				
FISCHER, MARK L				
ART UNIT		PAPER NUMBER		
2627				
MAIL DATE		DELIVERY MODE		
11/17/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/589,622

**Applicant(s)**

OHYAMA, MINORU

**Examiner**

Mark Fischer

**Art Unit**

2627

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14, 15, 17 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14, 15, 17 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 16, 2009 has been entered.

***Claim Objections***

2. Claim 14 is objected to because of the following informalities:
- Claim 14, line 3, it is suggested that “media, comprising:” be changed to --media, the optical device comprising:--.
  - Claim 14, line 13, it is suggested that “different positions” be changed to --different positions;--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 14, 15, 17, 20-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation “the first and second diffracted beams and unnecessary light reflected by recording layers other than a recording layer that is a recording or reproducing object” (emphasis added) in lines 22-24, and also recites the limitation “the third and fourth diffracted beams and unnecessary light reflected by recording layers other than a recording layer that is a recording or reproducing object” (emphasis added) in lines 31-33. There is insufficient antecedent basis for these limitations. Further, the relation of the recording layers to the first information recording medium of lines 6-7 and the second information recording medium of line 10 is absent from the claim.

Claim 14 recites the limitation “the signal of ...” in lines 22, 24, 31, and 33. There is insufficient antecedent basis for these limitations in the claim. Further, it is never claimed how the signal and the plurality of light receiving regions are linked.

Claim 14, lines 20-23 recites the limitation “an operation unit, wherein the wavelength of an incident beam to the hologram element is one wavelength of either the first or second wavelengths, carries out a subtraction operation ...” (emphasis added). The grammatical sentence structure is not correct and makes the claim language indefinite because it is not clear if the operation unit is what carries out the subtraction operation. In addition, claim 14, line 30 recites “carries out a subtraction operation ...” (emphasis added) which is also indefinite due to the incorrect grammatical sentence structure.

Claim 15 recites the limitation “the first light receiving region and second light receiving region”. There is insufficient antecedent basis for these limitations in the claim.

Claim 20 recites the limitation “the first and second light receiving regions” in line 3. There is insufficient antecedent basis for these limitations in the claim.

Dependent claims are rejected because they include the language of independent claims.

***Response to Arguments***

5. Applicant's arguments, see Remarks, Pages 11-12, filed October 16, 2009, with respect to the rejection of claims 19, 24, and 25 and geared towards currently amended claim 14 which incorporates limitations of claim 19 have been fully considered and are persuasive. The rejection of claim 14, as currently amended, has been withdrawn.

***Allowable Subject Matter***

6. Claims 14, 15, 17, 20-25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Matsuda (U.S. Pub. No. 2002/0093893 A1)
- Takahashi (U.S. Pat. No. 7,079,474 B2)
- Fukumoto et al. (U.S. Pat. No. 5,764,606 A)
- Kato et al. (U.S. Pub. No. 2002/0093893 A1)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Fischer whose telephone number is (571) 270-3549. The examiner can normally be reached on Monday-Friday from 9:00AM to 6:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Fischer/  
Examiner, Art Unit 2627  
11/5/2009  
/HOA T NGUYEN/  
Supervisory Patent Examiner, Art Unit 2627